

Exhibit 36

DORETHEA FRANKLIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BLACK LOVE RESISTS IN THE RUST by and through
MARIELLE SHAVONNE SMITH and CHARIS HUMPHREY
on behalf of its members, SHAKETA REDDEN,
DORETHEA FRANKLIN, TANIQUA SIMMONS, DE'JON HALL,
JOSEPH BONDS, CHARLES PALMER, SHIRLEY SARMIENTO,
EBONY YELDON, and JANE DOE,
individually and on behalf of a class of all
others similarly situated,

Plaintiffs,

-vs-

CITY OF BUFFALO, N.Y., BYRON B. BROWN,
Mayor of the City of Buffalo, in his individual and official
capacities,
BYRON C. LOCKWOOD, Commissioner of the
Buffalo Police Department, in his individual
and official capacities,
DANIEL DERENDA, former Commissioner of the
Buffalo Police Department, in his individual capacity, AARON
YOUNG, KEVIN BRINKWORTH, PHILIP SERAFINI,
ROBBIN THOMAS,
UNKNOWN SUPERVISORY PERSONNEL 1-10,
UNKNOWN OFFICERS 1-20, each officers of the
Buffalo Police Department,
in their individual capacities,

Defendants.

Examination Before Trial of
DORETHEA FRANKLIN, Plaintiff, taken pursuant to the Federal
Rules of Civil Procedure, in the law offices of HODGSON RUSS
LLP, The Guaranty Building, 140 Pearl Street, Suite 100,
Buffalo, New York, taken on May 15, 2023, commencing at
11:35 A.M., before NICHOLE WINANS, Notary Public.

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14 10

Copy of Dorethea Franklin's prior
transcript of deposition testimony

1 APPEARANCES:

2 WESTERN NEW YORK LAW CENTER,
3 By KEISHA A. WILLIAMS, ESQ.,
4 Cathedral Park Tower,
5 37 Franklin Street,
6 Suite 210,
7 Buffalo, New York 14202,
8 Appearing for the Plaintiffs.

6 NATIONAL CENTER FOR LAW AND ECONOMIC JUSTICE,
7 By KARINA K. TEFFT, ESQ.,
8 50 Broadway,
9 Suite 1500,
10 New York, New York 10004,
11 Appearing for the Plaintiffs.

10 HODGSON RUSS LLP,
11 By PETER A. SAHASRABUDHE, ESQ.,
12 The Guaranty Building,
13 140 Pearl Street,
14 Suite 100,
15 Buffalo, New York 14202-4040,
16 Appearing for the Defendants.

15 (The following stipulations were entered
16 into by all parties.)

17 It is hereby stipulated by and between counsel
18 for the respective parties that the oath of the
19 Referee is waived, that signing, filing and
20 certification of the transcript are waived, and
21 that all objections, except as to the form of the
22 questions, are reserved until the time of trial.
23

1 (Whereupon, Four Summons of Dorethea
2 Franklin were then received and marked as
3 Defendant's Exhibit K,

4 a Dorethea Franklin Uniform Traffic Ticket
5 for Front Windshield was then received and marked
6 as Defendant's Exhibit L,

7 a Dorethea Franklin Uniform Traffic Ticket
8 for Side Windshield was then received and marked
9 as Defendant's Exhibit M, and

10 Dorethea Franklin Citizen's Complaint Form
11 was then received and marked as Defendant's
12 Exhibit N, for identification.)

13
14 D O R E T H E A F R A N K L I N,
15 49 Easton Avenue, Buffalo, New York 14215,
16 after being duly called and sworn,
17 testified as follows:

18
19 EXAMINATION BY MR. SAHASRABUDHE:

20
21 Q. Good morning, Miss Franklin. My name is Peter
22 Sahasrabudhe, I represent the City of Buffalo and
23 a collection of individuals in connection with a

1 lawsuit that you and some other Plaintiffs have
2 brought. So my first question to you is have you
3 ever given a deposition -- or, withdrawn. Have
4 you ever given deposition testimony before?

5 A. Yes.

6 Q. In what capacity?

7 A. The same capacity, about the checkpoints, about
8 tickets.

9 Q. So you've given a deposition in connection with a
10 traffic ticket you've received?

11 A. Um-hum. Yes.

12 Q. Was that a lawsuit that you filed?

13 A. Yes.

14 Q. A lawsuit separate from this one?

15 A. Yes.

16 Q. Is that lawsuit still ongoing?

17 A. No.

18 Q. Do you recall the outcome of that lawsuit?

19 A. Yes.

20 Q. What was the outcome of the lawsuit?

21 A. I lost.

22 Q. The claims were in some way, shape or form
23 dismissed?

1 A. I don't know. I just lost.

2 Q. Do you recall when you filed that lawsuit?

3 A. No.

4 Q. Do you recall who you were suing?

5 A. Buffalo Police Department. I believe it was
6 Buffalo Police Department.

7 Q. Do you recall if you were suing any specific
8 officers?

9 A. The Strike Force.

10 Q. Okay. And we're talking again about a lawsuit
11 separate and apart from the lawsuit that you're
12 here to testify today for?

13 A. Yeah. Separate.

14 Q. Okay. Were you represented by the same counsel
15 in that lawsuit?

16 A. No. No.

17 Q. Who was your counsel in that lawsuit?

18 A. I forgot his name.

19 Q. About when did you bring those claims?

20 A. When they gave me the ticket on my property
21 while they were doing checkpoints.

22 Q. Understood. So, and we're going to get to that
23 in a little bit, but if I were to represent to

1 you that that -- the events you just described
2 happened in July of 2017, would that sound about
3 right to you?

4 A. Yes.

5 Q. Okay. And so after the events in July of 2017,
6 you filed a lawsuit?

7 A. Yes.

8 Q. All right. And your understanding is that that
9 lawsuit was dismissed?

10 A. Yes.

11 Q. Do you recall when it was dismissed?

12 A. No.

13 Q. Other than in connection with that lawsuit that
14 you filed, have you ever given deposition
15 testimony before?

16 A. No.

17 Q. Ever given sworn testimony of any kind?

18 A. No.

19 Q. So just the one deposition?

20 A. Yes.

21 Q. So a lot of the same ground rules are going to
22 apply with respect to the deposition you've
23 already given, but I'm going to probably repeat

1 them just so we're on the same page and just so
2 the record is clear. Okay?

3 A. Okay.

4 Q. So the first thing, and you're already doing a
5 very good job of this, is you need to let me
6 finish my question before you give an answer.
7 Sometimes it can be tough, sometimes you can know
8 what I'm going to ask, but just so the record is
9 clear and my full question gets transcribed, to
10 the best of your ability, can you try to let me
11 finish my question before you begin your answer?

12 A. Yes.

13 Q. And I'll do the same for you, to the best of my
14 ability. I'll try to let you finish an answer
15 before I jump in with another question. Again,
16 the most important thing that happens today is
17 that what you say and what I say gets transcribed
18 accurately, so in connection with that, I need
19 you to give a full verbal response to my
20 questions. So I can't have a shake of the head
21 or a nod of the head or an uh-huh or uh-uh,
22 because that doesn't get transcribed, so to the
23 best of your ability, could you give a full

1 verbal response to each of my questions?

2 A. Yes.

3 Q. Okay. Whether there's a yes or a no or a one
4 word answer, just try to give a full verbal
5 response.

6 A. Okay.

7 Q. Okay. If you don't understand a question, ask me
8 to rephrase it. Anything that isn't clear to you
9 or that doesn't really make sense, you're totally
10 entitled to ask me to rephrase, and I'll do the
11 best I can to rephrase it in a manner that is
12 more understandable. Does that sound good?

13 A. It sounds good.

14 Q. Okay. Conversely though, if you don't ask me to
15 rephrase a question and you go ahead and answer
16 it, I'm going to assume that means you understood
17 what I asked you. Is that fair?

18 A. Fair.

19 Q. All right. You're under oath, do you understand
20 what that means?

21 A. Yes.

22 Q. Okay. If you need a break at any point, that's
23 totally fine, you're entitled to take a break.

1 The only thing that I would ask is that if a
2 question is pending, you give a full verbal
3 response to the question that's been asked, and
4 then we can take a break. Do you understand
5 that?

6 A. Yes.

7 Q. Your lawyer may object from time to time, but
8 unless you're instructed not to answer a
9 question, answer the question to the best of your
10 ability. Do you understand that?

11 A. Yes.

12 Q. Anything I should know about this morning that
13 would affect your ability to give truthful and
14 accurate testimony?

15 A. No.

16 Q. All right. You're not under the influence of any
17 medications that would affect your ability to
18 give truthful and accurate testimony?

19 A. No.

20 Q. Okay. What, if anything, did you review to
21 prepare for your testimony today?

22 A. Nothing really.

23 Q. You don't recall any documents that you looked at

1 or reviewed to prepare for testifying?

2 A. I reviewed like how I spoke in the last
3 deposition, but that was it.

4 Q. You reviewed a transcript of your prior
5 testimony?

6 A. Yes.

7 Q. Is that a document that you reviewed with your
8 attorneys?

9 A. Yes.

10 MR. SAHASRABUDHE: Okay. I don't know that I've been
11 given a transcript of that deposition testimony,
12 and to the extent I haven't asked for it, I'm
13 going to index a request.

14 BY MR. SAHASRABUDHE:

15 Q. Anything else you reviewed besides your
16 transcript?

17 A. No.

18 Q. No. So I take it you did meet with your
19 attorneys to prepare for testifying today,
20 correct?

21 A. Yes.

22 Q. How many times?

23 A. Once.

1 Q. How long was that meeting?

2 A. I don't know.

3 Q. Was it over an hour?

4 A. Probably, yes.

5 Q. Over two hours?

6 A. I don't think so.

7 Q. Okay. So between one and two hours, fair
8 estimate?

9 A. Yes.

10 Q. Okay. How are you currently employed?

11 A. Self-employed.

12 Q. In what way are you self-employed?

13 A. Elaborate what you mean by that.

14 Q. It's a bad question. What kind of work do you
15 do?

16 A. I have a home care business, a transportation
17 business, and I am a mental health counselor.

18 Q. So your home care business, are you an owner of
19 that business?

20 A. Yes.

21 Q. Do you have people working for you?

22 A. Yes.

23 Q. What's the name of your home care business?

1 A. Benton Property Management Company LLC.

2 Q. How long has that been in operation?

3 A. Sixteen years.

4 Q. And are you the founder?

5 A. I'm the restarter.

6 Q. When did you restart the business?

7 A. 2007.

8 Q. What does Benson Property -- sorry. What's the
9 name of the business again, I apologize?

10 A. Benton Property Management Company.

11 Q. What does Benton Property Management Company do?

12 A. Rephrase that. I don't understand. What do you
13 mean?

14 Q. So you said it's a home health care business,
15 correct?

16 A. Um-hum. Yes.

17 Q. Can you describe exactly what kind of home health
18 care business it is?

19 A. Consumer directed.

20 Q. What does consumer directed mean?

21 A. You get an aide to come into your home.

22 Q. Are the aides employed by your business?

23 A. Yes.

1 Q. How many aides does your business employ?

2 A. Ten.

3 Q. And you mentioned there's a transportation
4 business that you own?

5 A. Yes.

6 Q. What's the name of that?

7 A. It all falls up under Benton.

8 Q. Okay. So Benton Property Management oversees or
9 underneath Benton Property Management there's a
10 couple different businesses?

11 A. Right.

12 Q. What kind of transportation business do you run?

13 A. Medical, non-medical.

14 Q. What do you mean by non-medical?

15 A. Take them to doctors' appointments, grocery
16 shopping.

17 Q. I see. So someone will request to be taken to a
18 doctor's appointment or to be taken grocery
19 shopping, and your transportation service will
20 pick them up and take them?

21 A. Yes.

22 Q. How long has that been in operation for?

23 A. Two years.

1 Q. And you mentioned you're a mental health
2 counselor?

3 A. Yes.

4 Q. Do you personally see people who are seeking
5 mental health treatment and care?

6 A. Yes.

7 Q. Are you certified in being a mental health
8 counselor?

9 A. I have my license.

10 Q. What's the name of the license?

11 A. My name.

12 Q. Is there a particular -- so is there a particular
13 name that the certification is given, so for
14 example --

15 A. Mental health counselor.

16 Q. Okay. That's just it. What did you have to do
17 to obtain the license?

18 A. Graduate with a Master's.

19 Q. When did you graduate with a Master's?

20 A. 2012.

21 Q. And from what program did you graduate?

22 A. University of Phoenix.

23 Q. Is that your highest level of education?

1 A. Master's, yes.

2 Q. Where did you receive your undergrad education?

3 A. Buffalo State.

4 Q. When did you graduate from there?

5 A. Maybe 2008.

6 Q. What was your degree in?

7 A. Sociology.

8 Q. How long -- so have you been a mental health
9 counselor then ever since 2012?

10 A. Working towards, I was working towards being a
11 mental health counselor.

12 Q. Okay. Well, I thought you told me you got your
13 license in 2012?

14 A. I didn't say that.

15 Q. Okay. When did you get your license?

16 A. I got my license maybe like six months ago.

17 Q. Okay. And so at that time, six months ago when
18 you got your license, that's when you started --

19 A. Yes.

20 Q. -- seeing people and providing care for people
21 seeking mental health treatment?

22 A. Yes.

23 Q. Does anyone else work with you providing mental

1 health counseling?

2 A. No.

3 Q. Before you had these various businesses with
4 Benton Property Management, how were you
5 employed?

6 A. I worked at various places, everything in the
7 field of community, sociology, stuff like that.

8 Q. Before you started Benton Property Management,
9 can you tell me where specifically you were
10 employed?

11 A. Hillside. You want to know before that too,
12 before Hillside?

13 Q. What's Hillside?

14 A. It's like Hillside Children's Center, they do
15 foster care and adoption.

16 Q. Okay. How long were you employed by Hillside?

17 A. Five years.

18 Q. Were you only employed by Hillside or did you
19 have other forms of work in that five years?

20 A. I was only employed at Hillside.

21 Q. Okay. Then that's fine. That's all I really
22 need to know about.

23 A. Okay.

1 Q. So where do you currently live?

2 A. 49 Easton Avenue, Buffalo 14215.

3 Q. How long have you lived there for?

4 A. This time, I've been over there for seven, eight
5 years.

6 Q. Okay. When you say this time, does that mean you
7 had previously lived there?

8 A. Yeah. I move back and forth when I feel like it.

9 Q. Okay. And what years or about how long ago did
10 you previously live there?

11 A. So let's see -- I don't know. I can't remember
12 the dates, just too many dates to be trying to
13 remember.

14 Q. Okay. Prior to living at the Easton Avenue
15 address, where did you live?

16 A. 90 Cloverdale.

17 Q. How long did you live there?

18 A. Probably like three years.

19 Q. Why did you move?

20 A. Checkpoints.

21 Q. You specifically moved because of the vehicle and
22 traffic safety checkpoints being conducted near
23 your home?

1 A. Yes.

2 Q. Any other reason?

3 A. No.

4 Q. Where did you live prior to the Cloverdale
5 address?

6 A. Before Cloverdale?

7 Q. Yes.

8 A. Easton.

9 Q. Okay. Fair to say that in the past ten years,
10 those are the two places you've mainly resided,
11 the Cloverdale address and the Easton address?

12 A. Yes.

13 Q. Have you ever been a member of an organization
14 known as Black Love Resists In The Rust?

15 A. No.

16 Q. Have you ever attended any of their meetings?

17 A. No.

18 Q. Do you personally know any other of the named
19 Plaintiffs in this matter?

20 A. Yes.

21 Q. Who do you know?

22 A. Taniqua Simmons.

23 Q. How do you know her?

1 A. We do community stuff together.

2 Q. How long have you known her?

3 A. All my life.

4 Q. Did you go to school together?

5 A. No.

6 Q. Did you grow up near each other?

7 A. Yes.

8 Q. What community events have you participated in
9 with Taniqua Simmons?

10 A. We've been to meetings, I don't know, a lot of
11 events.

12 Q. What kind of meetings were you just describing?

13 A. Community meetings.

14 Q. Have you spoken to Taniqua Simmons about the
15 allegations in the complaint in this lawsuit?

16 A. Have I spoken to her about it?

17 Q. Yes.

18 A. I don't understand the question.

19 Q. Have you discussed this lawsuit with Taniqua
20 Simmons?

21 A. No.

22 Q. You've never even discussed that you're both
23 Plaintiffs in the same lawsuit?

1 A. We both already knew we were both complainants in
2 the same lawsuit.

3 Q. So you've never had any substantive conversations
4 with her about the allegations in the complaint?

5 A. Nothing to talk about.

6 Q. Any other Plaintiffs that you know personally?

7 A. No.

8 Q. Okay. Miss Franklin, I'm going to hand you
9 what's already been marked as Defendant's
10 Deposition Exhibit A, I'll represent to you that
11 this is the amended complaint filed by your
12 attorneys on behalf of you and some other
13 Plaintiffs. Is this a document you've seen
14 before? And you can take a second to flip
15 through it if you need.

16 A. I think so.

17 MS. TEFFT: Can you direct us to the page of her
18 specific --

19 MR. SAHASRABUDHE: Yes. I will.

20 MS. TEFFT: I think that will be easier for her
21 recollection.

22 BY MR. SAHASRABUDHE:

23 Q. Okay. So why don't we, you can go to paragraph

1 two hundred six through two hundred thirty-six.

2 MS. TEFFT: Are you asking her to review it?

3 BY MR. SAHASRABUDHE:

4 Q. Yes. Why don't you review it.

5 MS. TEFFT: Take your time.

6 BY MR. SAHASRABUDHE:

7 Q. And I think I already said this, but just to be
8 clear, stop at paragraph two thirty-six, and when
9 you're done with that, just let me know.

10 (Discussion off the record.)

11 BY MR. SAHASRABUDHE:

12 Q. So, Miss Franklin, you just reviewed paragraphs
13 two hundred six through two thirty-six of the
14 amended complaint in this action, correct?

15 A. Correct.

16 Q. Are those paragraphs something you've ever
17 reviewed before today?

18 A. Yeah. I browsed through them.

19 Q. Okay. When did you browse though them?

20 A. I don't know. When we were discussing the
21 checkpoints, the review or something.

22 Q. Did you review those allegations in preparation
23 for today?

1 A. Yes.

2 Q. Okay. So that's a document you reviewed in the
3 one to two hour meeting you had with your
4 attorneys?

5 A. Yes.

6 Q. All right. Are there any other documents you've
7 reviewed that you now remember that you didn't
8 tell me about earlier or would it have just been
9 your deposition testimony and the complaint?

10 MS. TEFFT: I'm going to object, only insofar as
11 there's privileged information in something that
12 we reviewed, so don't talk about the contents.

13 BY MR. SAHASRABUDHE:

14 Q. Just the documents you looked at.

15 A. Oh, I don't know the name of the documents, but I
16 was -- that was it I think.

17 Q. Okay. To the best of your recollection, those
18 are the only two documents you remember?

19 A. Um-hum. Yes.

20 Q. In having reviewed paragraphs two hundred six
21 through two thirty-six, did you notice anything
22 that was inaccurate or that doesn't accurately
23 portray your experiences with vehicle and traffic

1 safety checkpoints in the City of Buffalo?

2 A. No. It described it.

3 Q. Can you tell me what your understanding of a
4 vehicle and traffic safety checkpoint is?

5 A. If you're doing a safety checkpoint, you are
6 supposed to be doing it for a couple of reasons.
7 One is alcohol, to make sure there's no drunk
8 driving. That's not what these checkpoints were.

9 Q. Well, can you describe the checkpoints that you
10 encountered when you were living at the
11 Cloverdale address?

12 A. Intrusive, racist, discriminatory, meaningless,
13 money grab.

14 Q. Okay. Well, let me ask you this. When you went
15 through a vehicle and safety checkpoint in the
16 City of Buffalo, would officers look at the
17 vehicle and registration tag on your car?

18 A. Would they look at it, yeah. I believe they did
19 one time.

20 Q. And would it be fair to say that you never once
21 received a traffic ticket after having gone
22 through a checkpoint in the City of Buffalo?

23 A. Would it be fair to say that, I don't recall. I

1 don't know.

2 Q. As you sit here today, you can't recall a
3 specific instance where you got a traffic ticket
4 after going through a checkpoint?

5 A. I didn't. I didn't receive one. I don't
6 remember really, but I didn't receive one.

7 Q. And you were never arrested for any non-traffic
8 related offense --

9 A. No.

10 Q. -- as a result of having gone through a
11 checkpoint, correct?

12 A. Correct.

13 Q. Okay. When was the last time you encountered a
14 checkpoint within the City of Buffalo?

15 A. Last time I encountered one, I think they stopped
16 in like '19.

17 Q. So fair to say you haven't been through a
18 checkpoint in over three years?

19 A. Yeah. When they stopped, whatever year they
20 stopped, that was the last time I ever went
21 through one.

22 Q. So you're not going through them regularly
23 anymore?

1 A. There is none right now.

2 Q. Okay. Can you go to paragraph two thirteen,
3 please. So paragraph two thirteen of the amended
4 complaint says that Miss Franklin, referring to
5 you, observed that to the extent white people
6 went through the Bailey Avenue checkpoint, they
7 tended to pass through without being pulled over
8 for a secondary stop. Most of the drivers pulled
9 over for secondary inspections were black. Did I
10 read that correctly?

11 A. Sure.

12 Q. Okay. And my understanding, correct me if I'm
13 wrong. Is the secondary stop is referring to
14 after the initial stop, the car is asked to pull
15 to the side of the road for further questioning
16 or for a traffic citation, would that be
17 consistent with your understanding?

18 A. There was no further questioning, there was
19 taking of the vehicles.

20 Q. Okay. But so my question is a little bit
21 different. What I want to confirm, do you recall
22 any specific instances, as you sit here today, of
23 white people going through vehicle and traffic

1 safety checkpoints?

2 A. Yes.

3 Q. Okay. Were they stopped initially the same way
4 that other cars were?

5 A. No.

6 Q. So it's your testimony that they were allowed to
7 drive right through without being stopped at all?

8 A. Yes.

9 Q. Okay. And only black people were stopped at the
10 checkpoints?

11 A. Yes.

12 Q. Okay. Can you recall a specific instance when
13 that happened?

14 A. You're asking me for specific dates, and you want
15 me to go all the way back to 2017 for a specific
16 date in my head, I can't give you that.

17 Q. Okay. You have a general recollection of that
18 happening, but you can't recall a specific
19 instance, as you sit here today?

20 A. I can't recall specific dates. I can describe to
21 you anything else but a specific date.

22 Q. Okay. But it is your testimony that white people
23 were not stopped at all at the vehicle and

1 traffic safety checkpoints, they got to go right
2 through?

3 MS. TEFFT: Objection. Can you clarify, are you
4 talking about secondary stops or are you talking
5 about primary stops?

6 MR. SAHASRABUDHE: Right. Well, that's what I'm
7 trying to clarify.

8 MS. TEFFT: Can you clarify your question with that
9 distinction?

10 MR. SAHASRABUDHE: Yes.

11 BY MR. SAHASRABUDHE:

12 Q. Okay. Do you understand -- okay. When I refer
13 to a primary stop at a checkpoint, I'm just
14 referring to cars are in a line, and they
15 approach an officer, they're stopped momentarily,
16 and they're allowed to proceed. A secondary stop
17 would be after they're stopped, they have to pull
18 to the side of the road, and then something
19 further happens, for instance, they're issued a
20 traffic ticket, there could be a towing of a
21 vehicle or there's some further questioning done.
22 Do you understand the difference between the
23 primary stop and the secondary stop?

1 A. Yes.

2 Q. Okay. So with respect to primary stops, is it
3 your testimony that when a white person went
4 through a vehicle and traffic safety checkpoint,
5 they were not subjected to a primary stop?

6 A. My testimony is this, I think you're under the
7 assumption that when you are driving through the
8 checkpoint, that everybody was stopped initially
9 and spoken to, and then they went to the next
10 stop. That is not what occurred for everybody.
11 So when a white person came through, they were
12 not stopped initially, they were allowed to go
13 straight through.

14 Q. Okay. So when going through a checkpoint,
15 certain drivers were allowed to pass through, and
16 other drivers were not?

17 A. Yes.

18 Q. Okay. But all drivers were made to slow down and
19 pass through the checkpoint, correct?

20 A. You had no choice but to slow down.

21 Q. Okay. Regardless of your race?

22 A. Right.

23 Q. Okay. And each driver would go through that

1 initial checkpoint, correct?

2 A. You had no choice but to go through that, the
3 Strike Force was right there, and traffic was
4 backed up from the expressway, so you had no
5 choice but to be slow going down.

6 Q. Okay.

7 MS. TEFFT: Objection. Can you be clearer in your
8 questions about -- you're saying going through a
9 checkpoint, just being distinct about just
10 driving on through versus going through the
11 actual primary stop.

12 BY MR. SAHASRABUDHE:

13 Q. Right. I guess that's what I'm asking. Is it
14 your testimony that at certain checkpoints, there
15 was -- there were certain drivers who didn't have
16 to stop at all?

17 A. Yes.

18 Q. Okay. And only some drivers were stopped
19 momentarily?

20 A. Black drivers was, yes.

21 Q. Okay. And it's your testimony that if a white
22 person went through a vehicle and traffic safety
23 checkpoint, they were not stopped at all?

1 A. Yes.

2 Q. Okay. And is it your testimony that that
3 happened in every instance you saw a white person
4 go through or approach a checkpoint?

5 A. From what I can recall, yes.

6 Q. Do you recall how often you saw white people go
7 through checkpoints?

8 A. You ask me a question that -- I did not count as
9 many white people, I didn't count them so I don't
10 know.

11 Q. I understand that you don't have a specific
12 number, but was it a regular occurrence that you
13 saw white people going through checkpoints?

14 A. I mean, I can't answer that question for you.
15 Because it still makes me feel like I have to
16 give you a number, and I don't -- I can't. I
17 can't give you that. It was a lot of white
18 people that went through, but I don't know how
19 many.

20 Q. Okay. So it happened on more than one occasion
21 that you saw white people go through checkpoints?

22 A. For the past -- yes. From the time it started to
23 the time it ended, yes.

1 Q. Okay. And in every instance that you observed,
2 it's your testimony that they weren't stopped at
3 all?

4 A. Yes.

5 Q. Okay. Can you go to paragraph two eighteen,
6 please -- I apologize. Two nineteen, sorry. Two
7 nineteen through two twenty.

8 So fair to say paragraph two nineteen says
9 that you were only, in the times that you went
10 through a checkpoint, there were three occasions
11 where you were subjected to what we've been
12 describing as a secondary stop, would that be
13 accurate?

14 A. Yes.

15 Q. And on two of the occasions, after you were
16 subjected to the secondary stop, you weren't
17 issued a ticket, and you were allowed to drive
18 away, correct?

19 A. Correct.

20 Q. Okay. Now let's -- paragraph two twenty-one
21 through two -- actually, just paragraph two
22 twenty-one, that describes the third secondary
23 stop you were subjected to, right?

1 A. Yes.

2 Q. Fair to say that you were allowed to drive away
3 without any tickets in that incidence as well?

4 A. No. I wasn't allowed to drive away. I was
5 pulled over until I was able to get the
6 registration thing current.

7 Q. Well, you weren't issued any tickets, right?

8 A. No, I was not.

9 Q. And you eventually did drive away from that spot,
10 correct?

11 A. Yes.

12 Q. After having been pulled over and waiting?

13 A. For hours, yes.

14 Q. Okay. But no court appearance or summons
15 required?

16 A. No.

17 Q. No fines?

18 A. No.

19 Q. Okay. No arrest of any kind?

20 A. No.

21 Q. Okay. Was your inspection sticker, in fact,
22 expired, the one that was on the car?

23 A. I believe it said it had expired the day before

1 or something.

2 Q. Okay.

3 A. Um-hum.

4 Q. And you renewed it and got it updated while you
5 were waiting?

6 A. Yes.

7 MS. TEFFT: I'm sorry, Peter. You said inspection, I
8 believe this paragraph says registration.

9 BY MR. SAHASRABUDHE:

10 Q. Okay. I apologize. Registration sticker
11 expired?

12 A. Correct.

13 Q. Okay. And you renewed it while you were waiting?

14 A. Yes.

15 Q. And as you sit here today, you believe the
16 officers informed you that the registration
17 sticker had expired, either the day prior or a
18 few days prior?

19 A. Yes.

20 Q. Okay. I'm going to show you what we've marked as
21 Defendant's Exhibit K. So Defendant's Exhibit K
22 is two ordinance tickets issued to you in July of
23 2017, correct?

1 A. Correct.

2 Q. All right. And are these the tickets that you
3 brought your lawsuit for?

4 A. Yes.

5 Q. Okay.

6 MS. TEFFT: Objecting. Can you clarify, you're
7 talking about the other lawsuit that is not this
8 lawsuit?

9 MR. SAHASRABUDHE: Yes.

10 BY MR. SAHASRABUDHE:

11 Q. These are the tickets you brought your lawsuit
12 for separate and apart from this lawsuit?

13 A. Yes.

14 Q. The one that you gave deposition testimony for
15 prior to being here today?

16 A. Yes.

17 Q. Okay. So my understanding is you were cited for
18 violating some city ordinances, one being that
19 your grass was over ten inches tall, correct?

20 A. That's what they put on the ticket.

21 Q. And it says garbage tote in front yard, was that
22 what the other ticket was for?

23 A. Yes.

1 Q. Okay. Did you challenge these citations in
2 court?

3 A. Yes.

4 Q. Can you tell me what the outcome was?

5 A. They were dismissed.

6 Q. Do you recall, did you go to court and give
7 testimony in front of a judge?

8 A. Yeah. A little bit, like -- yeah. Yes.

9 Q. And ultimately, you didn't have to pay a fine?

10 A. Ultimately.

11 Q. And of course, these tickets were not issued to
12 you while you were driving your vehicle, correct?

13 A. Correct.

14 Q. How did you find out that you had been ticketed?

15 A. They went on my property and put the tickets in
16 the mailbox.

17 Q. Okay. Do you remember what your allegations were
18 for the lawsuit that you filed in connection with
19 these tickets?

20 A. No. I don't remember. I know that they
21 illegally went on my property and looked at my
22 vehicle, and lied about the grass.

23 Q. Okay. Do you remember whether your case was

1 brought in state or federal court?

2 A. No. I don't remember.

3 Q. And you don't remember your lawyer's name?

4 A. I cannot remember his name.

5 Q. I'm going to show you at the same time -- well,
6 let me actually back up for a second. No. I'll
7 show you these. I'll show you these right now.

8 MS. TEFFT: And, Peter, I'm sorry. This Exhibit K,
9 you were only speaking as to the two tickets that
10 are on the front page, but there are two tickets
11 on the second page, is this all part of the same
12 exhibit or were you meaning to mark them as
13 separate exhibits?

14 MR. SAHASRABUDHE: Separate exhibits.

15 MS. TEFFT: Okay. Because you did not ask, correct,
16 about the two tickets on the second page?

17 MR. SAHASRABUDHE: No. No.

18 MS. TEFFT: Okay.

19 MR. SAHASRABUDHE: Well, why don't we do it all as
20 one exhibit, and I'll ask about the second page.

21 MS. TEFFT: Okay.

22 BY MR. SAHASRABUDHE:

23 Q. Can you flip to the second page of what we've

1 marked as Defendant's Exhibit K. So these are
2 also, in addition to the two city ordinance
3 citations we already talked about, two additional
4 citations you received, correct?

5 A. Yes.

6 Q. All right. And they were issued on the same day,
7 July 17?

8 A. Yes.

9 Q. Of 2017?

10 A. Um-hum. Yes.

11 Q. All right. And again, were these charges
12 dismissed?

13 A. Yes.

14 Q. Okay. And these charges were not for anything
15 you did while you were driving or operating a
16 vehicle, correct?

17 A. Correct.

18 Q. Okay. And you weren't arrested or put in custody
19 as a result of these charges, correct?

20 A. Correct.

21 Q. You found these citations in your mailbox the way
22 you did with the other two?

23 A. They put them in the mailbox, they were still

1 standing outside my home blocking my house while
2 they were going on my property.

3 Q. So these were put in your mailbox the way the
4 other two were?

5 A. They were put in the mailbox.

6 Q. Okay. I'll hand you that, L and M. So I just
7 handed you Defendant's Deposition Exhibit M and
8 L. Do you need a second to look those over? Are
9 you familiar with these documents?

10 A. Yes.

11 Q. Fair to say that these are two tickets you
12 received on the same date, which is March -- it
13 was March of this year, March of 2023?

14 A. Yes.

15 Q. Can you tell me where you received these two
16 tickets?

17 A. I was near -- I was driving down Bailey, I was
18 pulled over just before Delavan.

19 Q. Fair to say that this was not at a vehicle and
20 traffic safety checkpoint when you were pulled
21 over?

22 A. Fair to say.

23 Q. Okay. And so how were you pulled over?

1 A. He chased behind me and pulled me over.

2 Q. The officer who issued the tickets, drove up
3 behind you and put his lights on?

4 A. Yes.

5 Q. And you pulled over?

6 A. Yes.

7 Q. And could you describe what took place after you
8 pulled over?

9 A. He asked me who I was, and I asked what was he
10 pulling me over for, didn't have a clear reason
11 why he was pulling me over, then he started
12 searching for reasons to give me a ticket.

13 Q. When you say searching for reasons to give you a
14 ticket, did he ultimately tell you that your
15 windows were tinted?

16 A. After. That wasn't his original reason for
17 pulling me over, so I don't know what the -- but
18 after he started searching.

19 Q. Okay. So how long after the original --
20 withdrawn. How long after pulling you over did
21 he notify you that your windows were tinted?

22 A. About five, ten minutes.

23 Q. And at this point he wrote you these two tickets?

1 A. Yes.

2 Q. And one of the tickets is for the front
3 windshield being tinted, correct?

4 A. Yes.

5 Q. And the other is for the side windshield being
6 tinted?

7 A. Yes.

8 Q. Were those windows, in fact, tinted?

9 A. Yes.

10 Q. Okay. Have you challenged or disputed these
11 traffic tickets in a court of law?

12 A. Yes.

13 Q. What was the outcome?

14 A. Dismissed.

15 Q. You didn't have to pay any fine or --

16 A. No.

17 Q. -- any penalty of any kind?

18 A. No.

19 Q. Were you arrested on this occasion?

20 A. I get -- is an arrest when they give you the
21 summons to go to court?

22 Q. Well, that's a good question, so I'm going to
23 make a distinction. No. Were you taken away

1 from your car?

2 A. No.

3 Q. Were you allowed to leave the scene in your car?

4 A. Yes.

5 Q. Okay. You weren't apprehended or put in custody
6 in any way, shape or form?

7 A. No.

8 MR. SAHASRABUDHE: Let's mark this Defendant's O.

9

10 (Whereupon, a Doctor's Note was then
11 received and marked as Defendant's Exhibit O, for
12 identification.)

13

14 BY MR. SAHASRABUDHE:

15 Q. So I just handed you a copy of a document your
16 lawyer gave to me today, and we've marked it as
17 Defendant's Exhibit O. It's a note from your
18 doctor, correct?

19 A. Yes.

20 Q. When did you receive that doctor's note?

21 A. I can't even see the date that he gave it --
22 3/12. So it was written at my next appointment,
23 so it was 3/15.

1 Q. Okay. So you did not have this doctor's note
2 when you were pulled over in March of 2023?

3 A. Correct.

4 Q. Okay. And you have since received a doctor's
5 note?

6 A. Yes.

7 Q. Did you present that at the hearing for your
8 traffic ticket?

9 A. Yes.

10 Q. And is that why the charges were dismissed?

11 A. Yes.

12 Q. To your understanding?

13 A. To my understanding, yes.

14 Q. How many court appearances did you have?

15 A. One.

16 Q. Okay. And you've had no other court appearances
17 in connection with those two traffic tickets,
18 correct?

19 A. Correct.

20 Q. All right. I just handed you what we previously
21 marked as Defendant's Deposition Exhibit N. Is
22 this something you reviewed in preparation for
23 today?

1 A. No.

2 Q. Are you familiar with this document?

3 A. Yes.

4 Q. Have you seen it before?

5 A. Yes.

6 Q. Fair to say that this is a complaint you filed
7 against Officer Miller who wrote you the two
8 traffic tickets?

9 A. Yes.

10 Q. Has anything happened since you made this
11 complaint with respect -- withdrawn. Have you
12 given any statements to the Buffalo Police
13 Department or anyone from the City of Buffalo
14 after you made this complaint?

15 A. No.

16 Q. Okay. So at the top it says it's a description
17 given of your statement, and it says Miss
18 Franklin states that PO Miller unlawfully used
19 his badge to arrest her, correct?

20 A. Correct.

21 Q. And again, I want to make a distinction, you were
22 cited for a vehicle and traffic violation,
23 correct?

1 A. Correct.

2 Q. But you were not placed under arrest?

3 A. Correct.

4 Q. Okay. Was the March 2023 incident the last time
5 you received a traffic ticket in the City of
6 Buffalo?

7 A. Yes.

8 Q. Prior to March of 2023, when was the last time
9 you received a traffic ticket?

10 A. I can't recall.

11 Q. Had it been more than five years since you
12 received a traffic ticket when you were given
13 these tickets in March of 2023?

14 A. I can't recall.

15 Q. You can't recall any specific instances right
16 now?

17 A. No specific dates, no.

18 Q. Okay. Have you ever -- do you remember any
19 specific instances regardless of the date of
20 receiving a traffic ticket in the City of
21 Buffalo?

22 A. I don't know. Maybe like when I first started
23 driving. I don't know. I can't answer that

1 question for you.

2 Q. Okay. No specific instances you can recall?

3 A. I can't recall.

4 MR. SAHASRABUDHE: Okay. That's all I have.

5 THE WITNESS: That's it?

6 MR. SAHASRABUDHE: That's it.

7 THE WITNESS: Okay.

8 MS. TEFFT: Can we actually take a five-minute break
9 at this point?

10 MR. SAHASRABUDHE: Yes. Sure.

11 (Whereupon, a short recess was then taken.)

12

13 EXAMINATION BY MS. TEFFT:

14

15 Q. We can go back on the record. Miss Franklin, I
16 just have a couple more questions for you. So
17 where you're currently living, and where you
18 currently drive, have you observed the BPD
19 engaging in traffic enforcement, traffic stops
20 around your neighborhood?

21 A. Yes. All the time, on Bailey it's Friday night
22 lights over there on Bailey, they go up and down
23 the street pulling cars over.

1 Q. Do you have an idea of what they're stopping
2 folks for or is it unclear?

3 MR. SAHASRABUDHE: Objection to form.

4 THE WITNESS: I can answer that?

5 MR. SAHASRABUDHE: Yes.

6 BY MS. TEFFT:

7 Q. You can answer.

8 A. Well, we know that it's for tickets because
9 that's what they do, they pull them over, then
10 they leave.

11 Q. Do you know people in your community who have
12 been stopped by the BPD?

13 A. Yes.

14 Q. Have they been stopped recently?

15 A. People are stopped almost every day.

16 Q. Do you know people who have been ticketed
17 recently?

18 A. Yes.

19 Q. Okay. And on a different subject, a few moments
20 ago Peter showed you a copy of the citizen's
21 complaint form that you filed about your traffic
22 stop that happened on March 12th, 2023. Do you
23 remember that document?

1 A. Yes.

2 Q. Can you just take a moment to review the
3 handwritten paragraph towards the bottom
4 explaining the nature of your complaint?

5 A. Okay. So this is what the supervisor wrote, but
6 it was some of my words. My words wasn't
7 unlawfully used -- well, I did say unlawfully
8 used his badge, but he put to arrest her.

9 Q. Can you explain what you meant by unlawfully used
10 his badge?

11 A. He was doing -- he wasn't doing this for -- I
12 don't know. He pulled me over, and how he pulled
13 me over, he just -- he wasn't in the color of the
14 law when he pulled me over. I should have
15 never --

16 Q. What did he -- I'm sorry. Excuse me. Finish
17 your answer, I apologize.

18 A. He just wasn't in the color of the law when he
19 pulled me over.

20 Q. What did the officer tell you was the reason that
21 he stopped you when he pulled you over?

22 A. He said he was doing an investigation, so he was
23 like -- and wasn't very clear about what he was

1 talking about, he was just trying to get
2 information from me about me and my car.

3 Q. Can you elaborate on that, what information about
4 your car was he interested in?

5 A. Like who am I, who I was and why am I driving
6 down Bailey, like it was just stupid.

7 Q. Did he explain why he was interested in learning
8 that information?

9 A. He said that my car was identified as being a car
10 to go up and down Bailey. Somebody identified my
11 car as going up and down Bailey, like my car was
12 following him.

13 Q. Okay. And it was identified for what reason, did
14 he tell you?

15 MR. SAHASRABUDHE: Form.

16 THE WITNESS: I don't know.

17 BY MS. TEFFT:

18 Q. Okay. So then you filed a complaint, right,
19 about this stop?

20 A. Yes.

21 Q. Has the BPD or specifically internal affairs at
22 the BPD followed up with you at all about this
23 complaint since you filed it?

1 A. No.

2 Q. What, aside from when you filed the citizen's
3 complaint form, have you had any other
4 conversations or interactions with the BPD about
5 this complaint?

6 A. I've called and left messages for them to call me
7 back. I was told at one point to contact the
8 district, and then I had requested a supervisor
9 from internal affairs to call me, but nobody has
10 called me.

11 Q. Nobody has called you?

12 A. Nobody has called me.

13 Q. So as far as you're aware, there's been no --

14 A. No movement.

15 MR. SAHASRABUDHE: Form.

16 BY MS. TEFFT:

17 Q. There's been no outcome to this complaint?

18 MR. SAHASRABUDHE: Form.

19 THE WITNESS: Correct.

20 MS. TEFFT: Okay. I don't have anything further.

21

22 RE-EXAMINATION BY MR. SAHASRABUDHE:

23

1 Q. Just very quickly. Did Officer Miller testify at
2 the court appearance you had for the March 2023
3 traffic tickets?

4 A. No.

5 Q. Okay. You were the only one there?

6 A. Yes.

7 MR. SAHASRABUDHE: That's all I have.

8 MS. TEFFT: Okay. That's it.

9 THE WITNESS: Okay.

10

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23

1 I HEREBY CERTIFY that I have read the
2 foregoing 54 pages and that, except as to those
3 changes set forth in the attached errata form(s),
4 they are a true and accurate transcript of the
5 testimony given by me in the above-entitled
6 action on May 15, 2023.

7
8
9
10 -----
11 DORETHEA FRANKLIN
12
13

14 Sworn to before me this

15
16 ----- day of ----- 2023.
17

18
19 -----
20 Notary Public.
21
22
23


1 STATE OF NEW YORK)

2 SS:

3 COUNTY OF ERIE)

4
5 I, Nichole Winans, a Notary Public in and
6 for the State of New York, County of Erie, DO
7 HEREBY CERTIFY that the testimony of DORETHEA
8 FRANKLIN was taken down by me in a verbatim
9 manner by means of Machine Shorthand, on May 15,
10 2023. That the testimony was then reduced into
11 writing under my direction. That the testimony
12 was taken to be used in the above-entitled
13 action. That the said deponent, before
14 examination, was duly sworn by me to testify to
15 the truth, the whole truth and nothing but the
16 truth, relative to said action.

17 I further CERTIFY that the above-described
18 transcript constitutes a true and accurate and
19 complete transcript of the testimony.

20
21 
22 _____
23 NICHOLE WINANS,
Notary Public.

ERRATA FORM

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Dorethea Franklin

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